

AMENDED IN SENATE MAY 27, 2005
AMENDED IN SENATE APRIL 26, 2005
AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 762

Introduced by Senator Lowenthal

February 22, 2005

An act to add Chapter 9.9 (commencing with Section 44299.88) to Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as amended, Lowenthal. Vehicular sources: California Intermodal Port Congestion and Environmental Quality.

(1) Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to load or unload at the terminal.

This bill would establish the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC).

This bill would require the LAIPC and OAIPC to perform specified functions, including, but not limited to, granting to each motor carrier a port permit for authority to enter a specific port for pick up or delivery of intermodal freight for its truck fleet on the basis of a combined score, and determining the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange. The bill would require the LAIPC and OAIPC to determine the application of existing

truck engine emission standards as a requirement for a permit, and would require each motor carrier issued a port permit to pay an annual fee, set by the LAIPC and OAIPC at an amount that does not exceed the actual costs of the respective commission. The bill would permit the LAIPC and OAIPC to establish rules and regulations relating to port permits, ~~in consultation with specified entities. The bill would require the LAIPC and OAIPC to use funds generated by fees to reimburse the General Fund for any potential startup costs incurred.~~ This bill would also make certain legislative findings and declarations relating to air pollution in port areas.

This bill would make certain findings and declarations regarding the inapplicability of a general statute without the meaning of Section 16 of Article IV of the California Constitution.

This bill would impose a state-mandated local program by imposing additional duties on specific air quality management districts and certain other local governmental entities.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Air pollution in California is an ongoing problem that
4 impacts the health and safety of its residents.

1 (2) California ocean marine terminals are congested with long
2 lines forcing trucks to idle for extended periods of time. Idling
3 trucks emit air contaminants, including oxides of nitrogen,
4 carbon dioxide, and particulate matter.

5 (3) Many of the idling trucks contain engines that are exempt
6 from present emission standards. The air contaminants emitted
7 from these trucks significantly increase pollution and
8 dramatically reduce air quality in the area in and around the
9 ports.

10 (4) Many marine terminals and ports in California are close to
11 residential areas and businesses frequented by the public. Many
12 port truck drivers are forced to continue to drive old and
13 environmentally harmful trucks because they are unable to afford
14 to purchase a new truck. The lines of idling trucks are so long
15 that many drivers wait upwards of four hours before receiving a
16 load, preventing them from hauling more than two loads a day,
17 leaving them in financial ruin.

18 (b) It is the intent of the Legislature to create the Los
19 Angeles-Long Beach Area Regional Intermodal Port Congestion
20 and Environmental Quality Commission (LAIPC) and the
21 Oakland Area Regional Intermodal Port Congestion and
22 Environmental Quality Commission (OAIPC) to evaluate and
23 regulate intermodal port traffic.

24 (c) It is further the intent of the Legislature to establish the Los
25 Angeles-Long Beach Area Intermodal Joint Powers Authority to
26 oversee the functions of the LAIPC and the Oakland Area
27 Intermodal Joint Powers Authority to oversee the functions of the
28 OAIPC.

29 SEC. 2. Chapter 9.9 (commencing with Section 44299.88) is
30 added to Part 5 of Division 26 of the Health and Safety Code, to
31 read:

32
33 CHAPTER 9.9. CALIFORNIA INTERMODAL PORT CONGESTION
34 AND ENVIRONMENTAL QUALITY
35

36 Article 1. Los Angeles-Long Beach Area Regional Intermodal
37 Port Congestion and Environmental Quality Commission
38

1 44299.88. (a) (1) The Los Angeles-Long Beach Area
2 Regional Intermodal Port Congestion and Environmental Quality
3 Commission (LAIPC) is hereby established.

4 (2) The commission shall be composed of ~~14~~ 15 members, as
5 follows:

6 (A) A representative of the South Coast Air Quality
7 Management District.

8 (B) A representative of the City of Long Beach.

9 (C) A representative of the City of Los Angeles.

10 (D) A representative of the Port of Long Beach.

11 (E) A representative of the Port of Los Angeles.

12 (F) A representative of the shipping line industry to be
13 nominated by the Pacific Merchant Shipping Association.

14 (G) A representative of labor representing ground
15 transportation workers to be nominated by the California State
16 Federation of Labor.

17 (H) A representative of labor representing workers inside port
18 terminals to be nominated by the California State Federation of
19 Labor.

20 (I) A representative of business that utilizes shipping services
21 in the Port of Long Beach or the Port of Los Angeles to be
22 nominated by the California Retailers Association.

23 (J) A representative of the trucking industry to be nominated
24 by the California Trucking Association.

25 (K) A representative of an environmental organization that
26 has, as a major focus, air quality issues to be nominated by ~~_____~~
27 *the South Coast Air Quality Management District.*

28 (L) A representative of a community group from a community
29 adjacent to the Port of Long Beach ~~or to be nominated by the City~~
30 *Council of the City of Long Beach and a representative of a*
31 *community group from a community adjacent to the Port of Los*
32 *Angeles to be nominated by _____ the City Council of the City of*
33 *Los Angeles.*

34 (M) A member of the Los Angeles County Board of
35 Supervisors.

36 (N) The Secretary of the Business, Transportation and
37 Housing Agency or his or her designee, as an ex officio member.

38 (b) ~~Except for the initial appointments to the LAIPC, each~~
39 *Each* commission member, other than the ex officio member
40 identified in subparagraph (N) of paragraph (2) of subdivision

(a), or his or her designee, shall serve a four-year term, ~~to be staggered so that approximately one-third of the appointments expire in each year.~~ A person may not be appointed to serve more than two consecutive terms. ~~The LAJPA shall appoint the initial members of the commission.~~

(c) In carrying out its duties and responsibilities the LAIPC may do all of the following:

(1) Meet at least once each quarter.

(2) Employ staff, including any clerical, legal, and technical assistance as may appear necessary.

(3) Establish advisory committees.

(4) Employ all other appropriate strategies necessary or convenient to enable it to fully and adequately perform its duties and exercise the powers expressly granted.

(d) The LAIPC shall develop and adopt member rules relating to conflicts of interest.

(e) The LAIPC shall be funded by port permit fees imposed upon motor carriers consistent with this article.

(f) The LAIPC shall use funds generated by the fees imposed pursuant to this article to reimburse the General Fund for any potential startup costs incurred.

44299.89. (a) The LAIPC shall determine the number of intermodal truck trips that pass through the Port of Long Beach and the Port of Los Angeles on an average daily basis and the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange. *The LAIPC shall utilize existing data whenever possible, including, but not limited to, data already gathered by the Port of Los Angeles and the Port of Long Beach.*

(b) The LAIPC shall ascertain the number of drivers necessary to make at least three round trips to and from the port. The LAIPC shall grant port permit authority consistent with subdivision (a) of Section 44299.90 so that the total number of trucks delivering intermodal freight to and from the port shall not exceed the number necessary for each truck to make at least three round trips to and from the port.

(c) The LAIPC shall develop a system to ensure that there is a sufficient number of trucks to meet short-term or peak demand.

The LAIPC shall establish a system, consistent with

1 environmental goals, to permit the transfer of vehicles or drivers
2 between authorized motor carriers and the updating of fleets
3 when new vehicles come into service or leave service.

4 44299.90. (a) Except as provided by subdivision (d), and
5 consistent with requirements of Section 44299.89, the LAIPC
6 shall grant to each motor carrier qualified under subdivision (b) a
7 port permit for authority to enter a specific port to pick up or
8 deliver intermodal freight for its truck fleet until the total fleet
9 size determined pursuant to Section 44299.89 is reached. Each
10 motor carrier shall be required to make an application for a port
11 permit pursuant to this section on behalf of any employee driver
12 or owner-operator, whether the owner-operator operates under
13 his or her own operating authority or operates as a subhauler
14 under the operating authority of an overlying motor carrier. A
15 motor carrier shall not require, as a condition of employment or
16 dispatch, that an employee driver or owner-operator driver
17 operating under the operating authority of the motor carrier pay
18 for any portion of the cost of the port permit.

19 (b) The LAIPC shall grant a port permit to a motor carrier on
20 the basis of a combined score derived from the following factors:

21 (1) The motor carrier's seniority of service in regularly
22 delivering intermodal freight to and from the particular port.

23 (2) Satisfactory ratings on a biennial inspection of terminal
24 report.

25 (3) The age of the motor carrier's fleet.

26 (4) Proof of adequate insurance, as established by the
27 commission.

28 (5) Any other criteria the LAIPC shall establish.

29 (c) A port permit shall not be issued to a motor carrier ~~if its~~
30 ~~fleet contains more than _____ percent of truck tractors older than~~
31 ~~the 1994 model year. unless the motor carrier uses a heavy-duty~~
32 ~~vehicle with an engine from the 1994 model year or newer.~~

33 (d) Where casual drivers are needed to fulfill short-term or
34 peak demand, those drivers may be dispatched from a hiring hall.

35 (e) Each motor carrier issued a port permit shall pay an annual
36 ~~fee of _____ dollars (\$_____)~~, to be used to fund the LAIPC. The
37 LAIPC shall set the fee at an amount that does not exceed the
38 actual costs of the commission's operations.

39 (f) A port permit shall be renewed on a periodic basis, as
40 determined by the commission.

1 44299.91. Each truck dispatched from a motor carrier that has
2 been issued a port permit shall display an identification sticker
3 authorizing the truck to enter the port. No truck may pick up or
4 deliver freight at a particular port if that truck is not part of the
5 fleet of a motor carrier that possesses a permit for that port.

6 44299.92. (a) The LAIPC may establish rules and regulations
7 as necessary to implement the provisions of this article. ~~The~~
8 ~~LAIPC shall also determine the application of existing truck~~
9 ~~emission standards as a requirement for a permit for trucks~~
10 ~~operating in and out of ports to reduce air emissions caused by~~
11 ~~the idling or queuing of trucks.~~

12 ~~(b) The LAIPC shall consult with the state board and the~~
13 ~~South Coast Air Quality Management District, as appropriate, in~~
14 ~~the development of rules and regulations pursuant to subdivision~~
15 ~~(a).~~

16 ~~(e)–~~

17 (b) For the purposes of this article, “motor carrier” means both
18 a motor carrier for hire and a proprietary motor carrier.

19
20 Article 2. Oakland Area Regional Intermodal Port Congestion
21 and Environmental Quality Commission
22

23 44299.94. (a) (1) The Oakland Area Regional Intermodal
24 Port Congestion and Environmental Quality Commission
25 (OAIPC) is hereby established.

26 (2) The commission shall be composed of 12 members, as
27 follows:

28 (A) A representative of the Bay Area Air Quality Management
29 District.

30 (B) A representative of the City of Oakland.

31 (C) A representative of the Port of Oakland.

32 (D) A representative of the Alameda County Board of
33 Supervisors.

34 (E) A representative of the shipping line industry to be
35 nominated by the Pacific Merchant Shipping Association.

36 (F) A representative of labor representing ground
37 transportation workers to be nominated by the California State
38 Federation of Labor.

1 (G) A representative of labor representing workers inside port
2 terminals to be nominated by the California State Federation of
3 Labor.

4 (H) A representative of business that utilizes shipping services
5 in the Port of Oakland to be nominated by the California
6 Retailers Association.

7 (I) A representative of the trucking industry to be nominated
8 by the California Trucking Association.

9 (J) A representative of an environmental organization that has,
10 as a major focus, air quality issues to be nominated by _____ the
11 *Bay Area Air Quality Management District*.

12 (K) A representative of a community group from a community
13 adjacent to the Port of Oakland to be nominated by _____ the
14 *City Council of the City of Oakland*.

15 (L) The Secretary of the Business, Transportation and Housing
16 Agency or his or her designee, as an ex officio member.

17 ~~(b) Except for the initial appointments to the OAIPC, each~~
18 ~~Each~~ commission member, other than the ex officio member
19 identified in subparagraph (L) of paragraph (2) of subdivision
20 (a), or his or her designee, shall serve a four-year term, ~~to be~~
21 ~~staggered so that approximately one-third of the appointments~~
22 ~~expire in each year.~~ A person may not be appointed to serve more
23 than two consecutive terms. ~~The OAIPA shall appoint the initial~~
24 ~~members of the committee.~~

25 (c) In carrying out its duties and responsibilities the OAIPC
26 may do all of the following:

27 (1) Meet at least once each quarter.

28 (2) Employ staff, including any clerical, legal, and technical
29 assistance as may appear necessary.

30 (3) Establish advisory committees.

31 (4) Employ all other appropriate strategies necessary or
32 convenient to enable it to fully and adequately perform its duties
33 and exercise the powers expressly granted.

34 (d) The OAIPC shall develop and adopt member rules relating
35 to conflicts of interest.

36 (e) The OAIPC shall be funded by port permit fees imposed
37 upon motor carriers consistent with this article.

38 (f) *The OAIPC shall use funds generated by the fees imposed*
39 *pursuant to this article to reimburse the General Fund for any*
40 *potential startup costs incurred.*

44299.95. (a) The OAIPC shall determine the number of intermodal truck trips that pass through the Port of Oakland on an average daily basis and the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange. *The OAIPC shall utilize existing data whenever possible, including, but not limited to, data already gathered by the Port of Oakland.*

(b) The OAIPC shall ascertain the number of drivers necessary to make at least three round trips to and from the port. The OAIPC shall grant port permit authority consistent with subdivision (a) of Section 44299.96 so that the total number of trucks delivering intermodal freight to and from the port shall not exceed the number necessary for each truck to make at least three round trips to and from the port.

(c) The OAIPC shall develop a system to ensure that there are a sufficient number of trucks to meet short-term or peak demand. The OAIPC shall establish a system, consistent with environmental goals, to permit the transfer of vehicles or drivers between authorized motor carriers and the updating of fleets when new vehicles come into service or leave service.

44299.96. (a) Except as provided by subdivision (d), and consistent with requirements of Section 44299.95, the OAIPC shall grant to each motor carrier qualified under subdivision (b) a port permit for authority to enter a specific port to pick up or deliver intermodal freight for its truck fleet until the total fleet size determined pursuant to Section 44299.95 is reached. Each motor carrier shall be required to make an application for a port permit pursuant to this section on behalf of any employee driver or owner-operator, whether the owner-operator operates under his or her own operating authority or operates as a subhauler under the operating authority of an overlying motor carrier. A motor carrier shall not require, as a condition of employment or dispatch, that an employee driver or owner-operator driver operating under the operating authority of the motor carrier pay for any portion of the cost of the port permit.

(b) The OAIPC shall grant a port permit to a motor carrier on the basis of a combined score derived from the following factors:

(1) The motor carrier's seniority of service in regularly delivering intermodal freight to and from the particular port.

(2) Satisfactory ratings on a biennial inspection of terminal report.

(3) The age of the motor carrier's fleet.

(4) Proof of adequate insurance, as established by the commission.

(5) Any other criteria the OAIPC shall establish.

(c) A port permit shall not be issued to a motor carrier ~~if its fleet contains more than _____ percent of truck tractors older than the 1994 model year.~~ *unless the motor carrier uses a heavy-duty vehicle with an engine from the 1994 model year or newer.*

(d) Where casual drivers are needed to fulfill short-term or peak demand, those drivers may be dispatched from a hiring hall.

(e) Each motor carrier issued a port permit shall pay an annual fee of _____ dollars (\$ _____); to be used to fund the OAIPC. The OAIPC shall set the fee at an amount that does not exceed the actual costs of the commission's operations.

(f) A port permit shall be renewed on a periodic basis, as determined by the commission.

44299.97. Each truck dispatched from a motor carrier that has been issued a port permit shall display an identification sticker authorizing the truck to enter the port. No truck may pick up or deliver freight at a particular port if that truck is not part of the fleet of a motor carrier that possesses a permit for that port.

44299.98. (a) The OAIPC may establish rules and regulations as necessary to implement the provisions of this article. ~~The OAIPC shall also determine the application of existing truck emission standards as a requirement for a permit for trucks operating in and out of ports to reduce air emissions caused by the idling or queuing of trucks.~~

~~(b) The OAIPC shall consult with the state board and the Bay Area Air Quality Management District, as appropriate, in the development of rules and regulations pursuant to subdivision (a).~~

~~(c)~~

(b) For the purposes of this article, "motor carrier" means both a motor carrier for hire and a proprietary motor carrier.

SEC. 3. The Legislature finds and declares that, due to the unique circumstances relating to air quality in the communities surrounding the Port of Los Angeles, the Port of Long Beach, and the Port of Oakland, a statute of general applicability cannot

1 be enacted within the meaning of subdivision (b) of Section 16 of
2 Article IV of the California Constitution.

3 ~~SEC. 4. No reimbursement shall be made pursuant to Part 7~~
4 ~~(commencing with Section 17500) of Division 4 of Title 2 of the~~
5 ~~Government Code for costs mandated by the state pursuant to~~
6 ~~this act. It is recognized, however, that a local agency or school~~
7 ~~district may pursue any remedies to obtain reimbursement~~
8 ~~available to it under Part 7 (commencing with Section 17500)~~
9 ~~and any other provisions of law.~~

10 *SEC. 4. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *a local agency or school district has the authority to levy service*
13 *charges, fees, or assessments sufficient to pay for the program or*
14 *level of service mandated by this act, within the meaning of*
15 *Section 17556 of the Government Code.*